

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

David Leon Stokes II,

Petitioner,

v.

Charles L. Ryan; Attorney General of the  
State of Arizona,

Respondents.

No. CV-15-00360-PHX-NVW (DKD)

**ORDER**

**and**

**DENIAL OF CERTIFICATE OF  
APPEALABILITY AND IN FORMA  
PAUPERIS STATUS**

Pending before the Court is the Report and Recommendation (“R&R”) of Magistrate Judge David K. Duncan (Doc. 23) regarding petitioner’s Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 1). The R&R finds that Petitioner is not eligible for relief on any of his claims and, therefore, recommends that his Petition be denied and dismissed with prejudice.

The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R. (R&R at 9 (citing 28 U.S.C. § 636(b)(1); Rules 72, 6(a), 6(b), Federal Rules of Civil Procedure. Petitioner filed objections on April 28, 2016 (Doc. 24).

The Court has considered the objections and reviewed the Report and Recommendation de novo. *See* Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1) (stating that the court must make a de novo determination of those portions of the Report and Recommendation to which specific objections are made). The Court agrees with the Magistrate Judge’s determinations, accepts the recommended decision within the meaning of Rule 72(b), Fed. R. Civ. P., and overrules Petitioner’s objections. *See* 28

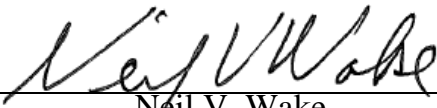
1 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in whole  
2 or in part, the findings or recommendations made by the magistrate”).

3 IT IS THEREFORE ORDERED that Report and Recommendation of the  
4 Magistrate Judge (Doc.23) is accepted.

5 Having considered the issuance of a Certificate of Appealability from the order  
6 denying Petitioner’s Petition for a Writ of Habeas Corpus, a Certificate of Appealability  
7 and leave to proceed in forma pauperis on appeal are denied because dismissal of the  
8 Petition is justified by plain procedural bar or lack of any violation of constitutional right  
9 and jurists would not find the rulings debatable.

10 IT IS FURTHER ORDERED that the Clerk of the Court enter judgment denying  
11 and dismissing Petitioner’s Petition for Writ of Habeas Corpus filed pursuant to 28  
12 U.S.C. § 2254 (Doc. 1) with prejudice. The Clerk shall terminate this action.

13 Dated this 2nd day of May, 2016.

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17 Neil V. Wake  
18 United States District Judge  
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